IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07/03/2003

CORAM

THE HONOURABLE MR. JUSTICE P.K.MISRA

W.P.NO.7353 OF 2003
and
W.P.M.P.No.9479 Of 2003

S.Loganathan
S/o P.subbarayan
90, Narikattiyur
S.Vellalapatti Post
Karur 4 ..Petitioner

-Vs-

1.Inspector of Panchayat and
District Collector
Karur District
Karur

2.The Panchayat President
Sanapiratty Panchayat
Karur Taluk
Karur District ..Respondents

Petition filed under Article 226 of the Constitution of India for the issue of writ of Certiorarified Mandamus as stated therein.

For petitioner : Mr.S.Doraisamy

For Respondents: ---

:ORDER
The petitioner has filed the writ petition for issue of a Writ of Certiorarified Mandamus calling for the records relating to the order passed in Na.Ka.Aa.2/70/2003 dated 20.02.2003 on the file of the 1st respondent and direct the respondents to reject the resolution dated 3 0.12.2002 on the file of the 2nd respondent quash the same.

2.Heard the learned counsel appearing for the petitioner.

3.The petitioner had filed a representation dated 17.02.2002 before the Collector under Section 202 of the Tamil Nadu Panchayats Act, 199 4. Such representation has been rejected by order dated 20.02.2003. The conclusion is " there is no rules empowered to cancel the resolution which was passed in

accordance with the rules." The Collector has not kept in view the entire provision contained in section 202 which is extracted hereunder.

202.Power to suspend or cancel resolution, etc. Under the Act.-

(1)The Inspector may, by order in writing-

(i) suspend or cancel any resolution passed, order issued, or licence or permission granted, or

(ii) prohibit the doing of any act which is about to be done or is being done, in pursuance or under colour of this Act, if in his opinion,-

(a) such resolution, order, licence, permission or act has not been legally passed, issued, granted or authorised, or

(b) such resolution, order, licence, permission or act is in excess of the powers conferred by this Act or any other law or an abuse of such powers or is considered by the Inspector to be otherwise undesirable, or

(c)the execution of such resolution or order, or the continuance in force of such licence or permission or the doing of such act is likely to cause danger to human life, health or safety, or is likely to lead to a riot or an affray:

Provided that nothing in this sub-section shall enable the Inspector to set aside any election which has been held.

(2) The Inspector shall, before taking action or any of the grounds referred to in clauses (a) and (b) of sub-section (1), give the authority or person concerned an opportunity for explanation.

(3) The power conferred on the Inspector under Clause (c) of subsection (1) may be exercised by the Collector in accordance with the provisions of that clause.

A bare reading of the aforesaid provision makes it clear that that the Inspector is empowered under Section 202(1) (i),to suspend or cancel any resolution, if in his opinion, such resolution has not been legally passed or such resolution is abuse of powers or is considered to be otherwise undesirable or the execution of such resolution is likely to cause danger to human life, health or safety or is likely to lead to a riot or affray. The conditions indicated in sub-clauses (a),(b) and (c) and are disjunctive and not conjunctive in nature. Existence of any one of the conditions is sufficient to invoke the powers under Section 202 (1) (i). In other words even if a resolution is legally passed and does not call for any interference under subclauses (a), appropriate action may be taken by the Inspector if the conditions in sub-clauses (b) or (c) are applicable.

4.In the present case, the Collector does not seem to have applied his mind regarding the applicability of Section 202(1)(i)((b) and confined his attention to the provision contained in Section 202(1)(i)(a). The Collector is required to reconsider the matter in the light of Section 202 (1)(i)(b) and to pass necessary orders. The impugned order dated 20.02.2002 is accordingly quashed and the matter is required to be reconsidered within a period of four weeks from the date of communication of the present order.

5.The writ petition is disposed of accordingly. No costs. Consequently, W.P.M.P.No.9479/2003 is closed.

Index: Yes
Internet:Yes
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